

27805

xxxx9771

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

IN THE MATTER OF:

Nelson Villanueva Hernández,

Debtor(s).

Banco Popular de Puerto Rico,
Movant,

Nelson Villanueva Hernández,
Maylene Perez Robles,
~~Debtors-Respondents,~~

Alejandro Oliveras Rivera,
Trustee.

CASE NO: **11-02557 ESL**

CHAPTER: **7**

MOTION FOR RELIEF OF STAY UNDER 11 U.S.C. 362

TO THE HONORABLE COURT:

COMES now movant, **Banco Popular de Puerto Rico**, hereinafter referred to as "BPPR", by the undersigned attorney, and very respectfully alleges and prays:

1. Nelson Villanueva Hernández hereinafter will be referred to as "**the debtor**".

Maylene Perez Robles is named as co-guarantor and co-owner of the property.

2. BPPR, a secured creditor in the above captioned case, has not been offered nor provided adequate protection as required by section 362 of the

Bankruptcy Code. Consequently, it moves to request that the automatic stay be lifted in order to continue with the mortgage foreclosure proceedings.

3. The pertinent part of section 362 states that:

(d) On request of a party in interest and after notice and hearing, the court shall grant relief from stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay-

(1) For cause, including the lack of adequate protection of an interest in property of such party in interest

(2) With respect to a stay of an act against property under subsection(a) of this section, if---

A) The debtor does not have an equity in such property ; and

B) Such property is not necessary to an effective reorganization;

4. BPPR is the holder in due course of a mortgage note in the principal sum of \$155,000.00, bearing interest at 6.375%, per annum ("the note"). The indebtedness evidenced by the note is secured by a mortgage executed before the notary public Rafael Maldonado Nicolai on January 31st, 2005, deed number 22 ("the mortgage"). Attached hereto as **Exhibit 1** is a copy of the note and as **Exhibit 2** a copy of a title search that evidences BPPR's secured status.

5. The debtor's payment plan requires that the debtor make monthly regular post petition payments directly to BPPR.

6. The debtor has not made the monthly installments due to movant having incurred in a total of 3 post-petition installments in arrears to BPPR amounting to \$3,855.70, plus \$400.00 in legal fees for the total amount of \$4,255.70. See **Exhibit 3** attached hereto and made part hereof for an itemized statement of the arrearage.
7. The debtor's failure to make payments due under the mortgage note, results in the debtor's material default with the terms of the plan.
8. BPPR has not been offered and does not have adequate protection for the

above mentioned security interest. Moreover, the debtor has failed to make post petition payments as called for under the terms of the plan. Consequently "cause" exists to lift the automatic stay.
9. In view of the foregoing BPPR respectfully requests for an order lifting the automatic stay pursuant to sections 362(d)(1) of the Bankruptcy Code.
10. Attached hereto as **Exhibit 4** is the non military service affidavit required for the entry of an order by default by the Servicemembers' Civil Relief Act, 50 USC Appx. §521.

WHEREFORE, BPPR respectfully prays that an order be entered authorizing the relief from the automatic stay pursuant to section 362 (d)(1) of the Bankruptcy Code, granting costs, expenses and attorney's fees to BPPR and authorizing BPPR to proceed with the foreclosure of the mortgage against the property of the debtor, with such further relief as is just and proper.

RESPECTFULLY SUBMITTED

I HEREBY CERTIFY that this 26 day of August, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: **the Trustee, Alejandro Oliveras Rivera** and **to the debtors' attorney, Marilyn Valdés Ortega.**

Martínez & Torres Law Offices
P.O. Box 192938 San Juan, PR 00919-2938
Tel. (787) 767-8244 & Fax (787) 767-1183

s/ Tania M. Vázquez Maldonado
By: ~~Tania M. Vázquez Maldonado~~
USDC -PR 227810
tvazquez@martineztorreslaw.com

Vanessa M Torres Quiñones
USDC -PR 217401
vtorres@martineztorreslaw.com

NOTE
PAGARE

US\$ 155,000.00

San Juan, Puerto Rico
January 31, 2008

FOR VALUE RECEIVED, the undersigned ("Borrower") promise(s) to pay POPULAR MORTGAGE, INC.
Por valor recibido, el/los suscritor(es) ("Deudor") prometen(s) pagar a POPULAR MORTGAGE, INC.

or order the principal sum of ONE HUNDRED FIFTY FIVE THOUSAND (\$155,000.00)
o a su orden la suma principal de

Dollars, with interest on the unpaid
Dólares, con intereses sobre el balance

principal balance from the date of this Note, until paid, at the rate of SIXTY THREE SEVENTY FIVE (6.375%)
saldo de principal desde la fecha de esta Pagaré hasta su pago a razón de

percent per annum. Principal and interest shall be payable at San Juan, Puerto Rico or such other place as
por ciento anual. El principal e intereses pagaderos en San Juan, Puerto Rico o en cualquier otro lugar que

the Noteholder may designate in writing, in consecutive monthly installments of NINE HUNDRED SIXTY SEVEN DOLLARS
el tenedor de esta Pagaré indique por escrito, en plazos mensuales y consecutivos de

Dollars (US\$ 967.00) on the first day of each month beginning the first of March "2008"
Dólares (US\$ 967.00), en el primer día de cada mes comenzando el 1ro. De

until the
hasta que

entire indebtedness evidenced hereby is fully paid, except that any remaining indebtedness if not sooner paid, shall be due and payable
de pague totalmente la deuda evidenciada por el presente, excepto que la deuda restante, si no antes pagada quedara vencida y pagadera

on the first day of February "2008"
en el día primero de

—If any monthly installment under this Note is not paid when due and remains unpaid after a notice to Borrower
—Si cualquier plazo mensual bajo esta Pagaré no es pagado cuando vence y permanece impago luego de la fecha especificada en la notificación al deudor

the entire principal amount outstanding and accrued interest thereon shall at once become due and payable at the option of the
la suma total de principal pendiente de pago e intereses acumulados sobre la misma (recaída) inmediatamente vencidos y pagaderos a opción del

Note holder. The date specified shall not be less than thirty days from the date such notice is mailed. The Note holder
tenedor de esta Pagaré. La fecha especificada no será menor a treinta días a partir de la fecha de envío por correo de dicha notificación. El tenedor de esta Pagaré

may exercise this option to accelerate during any default by Borrower regardless of any prior forbearance. If suit is brought
podrá ejercitar esta opción de aceleración durante cualquier incumplimiento del Deudor, no importa en qué día de incumplimiento anterior. De realizarse

to collect this Note, the Note holder shall be entitled to collect in such proceeding the agreed and liquidated amount of ten
para coleccionar esta Nota, el tenedor de esta Pagaré tendrá derecho a coleccionar en dicho procedimiento la suma pactada y líquida de diez

percent of the original principal amount hereof to cover costs and expenses of suit, including but not limited to, attorney's fees,
por ciento de la suma original de principal del presente para cubrir los costos y gastos de dicho procedimiento, incluyendo sin limitación, honorarios de abogados.

—Borrower shall pay to the Note holder a late charge of five percent of any monthly installment not received by the Note
—El Deudor pagará al tenedor de esta Pagaré un cargo por mora de cinco por ciento de cualquier plazo mensual que no sea recibido por el tenedor de esta

holder within fifteen days after the installment is due. Borrower may prepay the principal amount outstanding in whole or in part.
tenedor dentro de quince días después de la fecha de vencimiento de dicho plazo. El Deudor podrá pagar por adelantado la totalidad o parte en cualquier momento de

The Note holder may require that any partial prepayments (i) be made on the date monthly installments are due and (ii) be in
El tenedor de esta Pagaré podrá requerir que cualquier pago parcial (i) sea hecho en la fecha en que vencen los plazos mensuales y (ii) sean en la

the amount of that part of one or more monthly installments which would be applicable to principal. Any partial prepayment shall
la cantidad de aquella parte de uno o más mensuales que sería aplicable a principal. Cualquier pago parcial por

be applied against the principal amount outstanding and shall not postpone the due date of any subsequent monthly installments or
se aplicará contra el principal pendiente de pago y no pospondrá la fecha de vencimiento de cualquier plazo mensual subsiguiente

change the amount of such installments, unless the note holder shall otherwise agree in writing.
ni cambiará el monto de dichos plazos a menos que el tenedor de esta Pagaré acuerde lo contrario por escrito.

PAY TO THE ORDER OF
DANIEL POPULAR DE PUERTO RICO
Withhold Payment
POPULAR MORTGAGE, INC.

By: _____
By: _____
Date: _____

—FIRMADO, SIGNADO, SELLADO Y RUBRICADO: RAFAEL MALDONADO NICOLAI; NOTARIO PUBLICO—

—Aparecen las iniciales en todos y cada uno de los folios y las firmas de los otorgantes (así como la de los testigos, si alguno) al final de la escritura así como la rúbrica, signo, sello y firma del notario autorizante, en el original de esta escritura. Tiene adheridos los correspondientes sellos de Rentas Internas y es Primera copia fiel y exacta de su original bajo el número de escritura -22- que obra en mi protocolo de Instrumentos públicos correspondiente al año en curso al que me remito y la misma consta de -13- folio(s).

—En fe de ello y a petición de POPULAR MORTGAGE, INC., expido PRIMERA copia certificada, que firmo, signo, sello y rubrico en el mismo día de su otorgamiento.

REGISTRADO AL

Folio

21

Tomo

650 de HPS

Firma

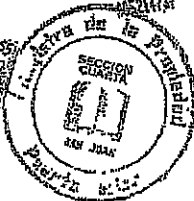
55 P.R. de la aldea de...

Afecta por su procedencia
a Derivaciones Hipotecas
\$130,000 a favor de
First Security Mortgage
Co. y a hipotecas que
por este documento
se constituyen.

Derecho: \$ 580.50

Registral

NOTARIO PUBLICO



ESTUDIO DE TITULO

CASO PARA : MARTINEZ & TORRES LAW OFFICES, P.S.C.
ATENCION : MARIA T. BALDERA
CASO NUMERO : N/E 27805
REFERENTE : NELSON VILLANUEVA HERNANDEZ
FINCA NUMERO : 20080, inscrita al folio 21 del tomo 650 de Río Piedras Sur
Registro de San Juan, sección IV

DESCRIPCIÓN:

URBANA: PROPIEDAD HORIZONTAL: Apartamento residencial identificado con el número 1001, ubicado en la primera planta del edificio "X" del complejo de estructura tipo "walk up" denominado Villas de Monte Atenas II, ubicado en el sector El Capá del Barrio Cupey de Río Piedras, término municipal de San Juan, con una cabida superficial de 115.68 metros cuadrados, equivalentes a 1245.17 pies cuadrados. Consiste de un salón para ser destinado a sala y comedor, otra área para ser destinada a cocina, tres áreas de habitaciones para ser destinadas a dormitorios, áreas para almacenar y de lavandería, dos baños y un área para ser destinada a balcón, este último con acceso desde el área destinada a sala y cocina. Colinda por el Norte, en una distancia de 4'-6" con la pared y la puerta que lo separa del vestíbulo o área de descanso de la escalera que da acceso a este apartamento y en una distancia aproximada de 14'-0" con la pared que lo separa del apartamento contiguo, a saber el apartamento número 1002; por el Sur, en una distancia aproximada de 28'-4" con las áreas verdes del solar y con el edificio número "IX" en donde ubica el edificio del cual forma parte este apartamento; por el Este, en una distancia de 38'-9" con las áreas verdes que ubican en el solar en donde se construyó este edificio; y por el Oeste, en una distancia de 43'-2" con las áreas verdes del solar en donde ubica el edificio del cual forma parte este apartamento y que lo separa de la Calle Melchor Maldonado. Le corresponden a este apartamento las áreas identificadas de estacionamiento como P-1001 A y B. Le corresponde a este apartamento el derecho exclusivo de uso del patio trasero que colinda con el mismo, sujeto dicho derecho de uso a las limitaciones que surgen de la escritura de constitución del Régimen de propiedad horizontal del cual este apartamento forma parte. Elementos comunes generales: 1.7857%.

TRACTO: Se separa de la finca 17515, inscrita al folio 185 del tomo 649 de Río Piedras Sur.

DOMINIO:

Consta inscrita a favor de NELSON VILLANUEVA HERNANDEZ y su esposa, MAYLENE PEREZ ROBLES, quienes adquiere por compra a José Francisco Rodríguez Colón y Marianno Luisette Del Valle Emmanuelli, por la suma de \$155,000.00, según escritura número 21, otorgada en San Juan, el 31 de enero del 2005, ante el notario Rafael Maldonado Nicolai. Inscrita al folio 21 del tomo 650 (ágora) de Río Piedras Sur. Inscripción tercera. TMV

GRAVÁMENES:

Afecta por su procedencia a:
Servidumbre a favor de la Autoridad de Acueductos y Alcantarillados, Autoridad de Energía Eléctrica, Puerto Rico Telephone Company, servidumbre peatonal y vehicular.

CASO: N/E 27105

FINCA: 20080

PAGINA: 2

Por sí a:

HIPOTECA:

Constituida por Nelson Villanueva Hernández y su esposa, Maylene Pérez Robles, en garantía a un pagaré a favor de POPULAR MORTGAGE, INC., o a su orden, por la suma de \$155,000.00, con intereses al 6.375% anual y vencidero el 1 de febrero del 2035, según escritura número 22, otorgada en San Juan, el 31 de enero del 2005, ante el notario Rafael Maldonado Nicolai. Inscrita al folio 21 del tomo 650 (ágora) de Río-Piedras Sur. Inscripción cuarta. TM

PRESENTACION:

Presentada el 29 de junio del 2004, al asiento 127 del diario 423, según escritura número 165, otorgada en San Juan, el 8 de abril del 2004, ante el notario Héctor L. Torres Vila, por Jacqueline Acevedo Garola, para que se cancele hipoteca por la suma de \$120,700.00.
Caducado el 31 de enero de 2005.

Nota: Este documento pretende cancelar una hipoteca que no consta inscrita ni pendiente de inscripción; Información revisada del Diario de Operaciones.

REVISADOS: Libro de Embargos, Sentencias, Embargos Federales y Bitácora Electrónica, a 1 de julio de 2011. Revisado nuevamente el 7 de julio de 2011.

L.J.N. TITLE SEARCH COMPANY INC.

APARTADO 4511

CAROLINA, PUERTO RICO 00984

Tel. (787) 791-5381 Fax / (787) 791-5304

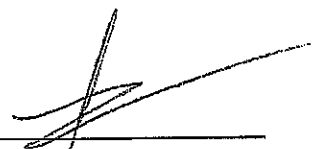
Por: 

OFICIAL AUTORIZADO

SVL/vjr DJM/mg DJM/vjr

ADVERTENCIA: El presente informe representa la realidad registral según la información contenida en los Registros Oficiales del Registro de la Propiedad. La bitácora electrónica no es un libro oficial del Registro, por lo tanto no somos responsables de errores u omisiones en su contenido.

(H-362) 27805

STATEMENT OF ACCOUNT					
DEBTOR:		Nelson Villanueva Hernandez		BPPR NUM: 9771	
BANKRUPTCY NUM:		11-02557ESL		FILING DATE: 03/28/11	
SECURED LIEN ON REAL PROPERTY					
Principal Balance as of		07/01/10		144,091.02	
Accrued Interest from		06/01/10 to 08/31/11		11,482.25	
Interest:	6.375%	Accrued num. of days:	450	Per Diem:	25.516118
Monthly payment to escrow					
Hazard	\$0.00	Taxes	\$0.00	MIP	\$0.00
A&H	\$0.00	Life	\$0.00		
Total montly escrow		\$0.00	Months in arrears	14	Escrow in arrears 0.00
					Accrued Late Charge: 758.20
Advances Under Loan Contract:					
Title Search	\$35.00	Tax Certificate	\$0.00	Inspection	\$0.00
Other	\$1,486.32				1,521.32
Legal Fees:					300.00
Total amount owed as of		08/31/11		158,152.79	
AMOUNT IN ARREARS					
PRE-PETITION AMOUNT:					
11	payments of	\$1,253.00	each one	13,783.00	
accumulated lated charges				661.60	
Advances Under Loan Contract:					
Title Search	\$35.00	Tax Certificate	\$0.00	Inspection	\$0.00
Other	\$1,486.32				1,521.32
Legal Fees					300.00
A = TOTAL PRE-PETITION AMOUNT					16,265.82
POST-PETITION AMOUNT:					
3	payments of	\$1,253.00	each one	3,759.00	
Late Charge				96.70	
B = TOTAL POST-PETITION AMOUNT					3,855.70
A + B = TOTAL AMOUNT IN ARREARS					20,121.52
OTHER INFORMATION					
Next pymt due	07/01/10	Interest rate	6.375%	P & I	\$967.00
Monthly late charge	\$48.35				
Investor	Banco Popular de Puerto Rico	Property address	Cond. Monte Atenas II apt 1001 Rio Piedras PR 00929		
The subscribing representative of Banco Popular de Puerto Rico declares under penalty of perjury that according to the information gathered by Banco Popular de Puerto Rico the foregoing is true and correct.					
 BANCO POPULAR DE PUERTO RICO				08/15/11 DATE	

SACCTFHA Josuam Figueroa

Department of Defense Manpower Data Center

Aug-24-2011 11:52:54



Military Status Report
Pursuant to the Service Members Civil Relief Act

◀ Last Name	First/Middle	Begin Date	Active Duty Status	Active Duty End Date	Service Agency
PEREZ ROBLES	MAILENE	Based on the information you have furnished, the DMDC does not possess any information indicating the individual status.			

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard).

Mary M. Snavelly-Dixon

Mary M. Snavelly-Dixon, Director

Department of Defense - Manpower Data Center

1600 Wilson Blvd., Suite 400

Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Service Members Civil Relief Act (50 USC App. §§ 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual is on active duty, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via the "defenselink.mil" URL <http://www.defenselink.mil/faq/pis/PC09SLDR.html>. If you have evidence the person is on active duty and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. §521(c).

If you obtain additional information about the person (e.g., an SSN, improved accuracy of DOB, a middle name), you can submit your request again at this Web site and we will provide a new certificate for that query.

This response reflects **active duty status** including date the individual was last on active duty, if it was within the preceding 367 days. For historical information, please contact the Service SCRA points-of-contact.

More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d)(1) for a period of more than 30 consecutive days. In the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy TARs, Marine Corps ARs and Coast Guard RPAs. Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps) for a period of more than 30 consecutive days.

Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate.

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. ~~The Last Date on Active Duty entry is important because a number of protections of SCRA extend beyond the last dates of active duty.~~

Those who would rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a name and SSN provided by the requester. Providing an erroneous name or SSN will cause an erroneous certificate to be provided.

Report ID:R16VJ3OQJ